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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

Arizona Dream Act Coalition, et al.,  
Plaintiffs,  
vs.  
Janice K. Brewer, et al.,  
Defendants.

CASE NO. 02:12-cv-02546-DGC-PHX  
**SUPPLEMENTAL DECLARATION  
OF KATHLEEN E. BRODY IN  
SUPPORT OF PLAINTIFFS'  
MOTION FOR AWARD OF  
ATTORNEYS' FEES AND NON-  
TAXABLE EXPENSES**

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*Attorneys for Plaintiffs*

1 I, Kathleen E. Brody, declare as follows:

2 1. I am an attorney admitted to practice in this Court and represent Plaintiffs  
3 in this matter. I make the following statements based on my personal knowledge, except  
4 where otherwise indicated, and I am prepared to testify to the matters set forth.

5 2. I make this declaration in support of Plaintiffs' Motion for Award of  
6 Attorneys' Fees and Related Non-Taxable Expenses, as a supplement to the declaration  
7 I previously prepared in support of the same motion. *See* Doc. 336-24.

8 3. I reviewed Defendants' Response to Plaintiffs' Memorandum in Support  
9 of Motion for Award of Attorneys' Fees and Related Non-Taxable Expenses, Doc. 337,  
10 and the exhibits thereto. Docs. 338 through 338-9.

11 4. After reviewing Defendants' Response, I have exercised additional billing  
12 discretion to make further reductions to the amount that the ACLU of Arizona is claiming  
13 for attorneys' fees in three categories, as described below.

14 5. I have exercised billing judgment so that the ACLU of Arizona is claiming  
15 fees for no more than one of its attorneys at each deposition in this case. *See* Doc. 337 at  
16 9 (Defendants' Response arguing about multiple attorneys at events). This exercise of  
17 discretion removes one time entry for James Duff Lyall (JDF) on February 6, 2013, for  
18 2 hours and 36 minutes ("Deposition Dulce Matuz"), and a **reduction of \$901.00** from  
19 the amount claimed by the ACLU of Arizona. *See* Doc. 336-24 at 28.

20 6. I have also exercised billing judgment so that the ACLU of Arizona is not  
21 claiming attorneys' fees for time spent reviewing time entries to prepare exhibits for  
22 Plaintiffs' Motion. *See* Doc. 337 at 13 (Defendants' Response arguing that attorney time  
23 spent reviewing time entries is not compensable). This exercise of discretion removes  
24 one time entry for myself, Kathleen E. Brody (KEB), on June 6, 2018, for 30 minutes  
25 ("Review time entries for exercise of billing judgment and expenses in preparation for  
26 fee motion."), and a **reduction of \$175.00** from the amount claimed by the ACLU of  
27 Arizona. *See* Doc. 336-24 at 30.

7. I have also exercised billing judgment so that the ACLU of Arizona is not claiming attorneys' fees for certain time entries that Defendants' Response argues reflect non-compensable clerical or administrative tasks. *See* Doc. 337 at 11-12. I have closely reviewed each of the time entries for the ACLU of Arizona that Defendants identify as non-compensable administrative tasks. Doc. 338-5 at 1-32 (Exhibit 10). In the exercise of discretion, the ACLU of Arizona will not claim fees for 60.2 hours of Gloria A. Torres's (GAT) time for a **reduction of \$11,137.00** from the amount claimed by the ACLU of Arizona.

8. A number of the ACLU of Arizona's time entries that Defendants identify as non-compensable administrative tasks are not, in fact, administrative or clerical. *See* Doc. 338-5 at 1-32 (Exhibit 10). Rather, those time entries reflect commonly billed and compensable attorney and paralegal activities that require skill, experience, and judgment. Specifically, the ACLU of Arizona should be compensated for the following time entries for Gloria A. Torres (GAT), totaling 46.2 hours:

1/8/2013	2.8	Description Prepare: FTP site for co-counsel to retrieve ADOT's response to public records request; email to Attorney Lyall re same.
1/23/2013	2.3	Description Review: and organization of client documents: Alan Salinas (ADAC-00001 thru ADAC-00329) and Cesar Valdes (ADAC-00330 thru ADAC-00356); email <u>l</u> to Attorney Lyall re same.
1/24/2013	2.8	Description Review: and organization of client documents : Dulce Matuz (ADAC-01297 thru ADAC-01594); email to Attorney re same.
1/24/2013	3.4	Description Review: and organization of client documents retrieving from Google Docs: Maria Castro (ADAC-00357 thru ADAC-00666); email to Attorney Lyall re same.
1/25/2013	3.7	Description Review: and organization of client documents: Reyna Montoya (ADAC-00667 thru ADAC-01296); email to Attorney Lyall re same.

1	1/26/2013	3.7	Description Review: and organization of ADAC client documents from Dulce Matuz; email to Attorney Lyall re same.
2			
3	1/29/2013	1.8	Description Review: and organization of first set of production to defendants.
4			
5	2/1/2013	3.8	Description Prepare: deposition binder for Attorney Flood in preparation of Dulce Matuz's deposition
6			
7	2/4/2013	1.8	Description Review: email from Attorneys Flood and Lyall re ACLU-AZ document review; prepare hard copies of same for review. ADOT0000479-ADOT0000529 and BREWER000001- BREWER000259
8			
9			
10	2/14/2013	2.7	Description Review: and organization of client documents: ADAC supplemental documents(02.13.13); email to Attorneys Flood and Lyall re same.
11			
12	2/20/2013	0.9	Description Insert : confidential watermark designations for Jesus Castro' deposition; email to Attorney Lyall re same.
13			
14	2/20/2013	0.9	Description Prepare: confidential watermark for deposition of Dule Matuz (ADAC 30b6 deposition); email to Attorneys Flood, Lyall and Orion Danjuma (IRP) re same.
15			
16			
17	2/27/2013	1.3	Description Review: email from Paralegal Pratt (Polsinelli) requesting deposition transcripts, exhibits and certification pages for Matuz, Jefferies, Perez-Gallegos, Martinez, Cooper, Jacobo, Castro-Martinez and Lopez; provide same via zip file.
18			
19			
20	10/23/2013	2.3	Description Case : filing and organization regarding discovery; file review regarding Defendants' privilege logs; forward same to Paralegal Sheila Miller (NILC).
21			
22			
23	1/22/2014	3.4	Description Review: and organization of discovery; organization of documents provided by client ADAC with regard to discovery requests.
24			
25	2/11/2014	2.3	Description Review: and organize depositions; update discovery file folder.
26			
27	2/25/2014	1.6	Description Prepare: Notices of Deposition for Charles Saillant, John Halikowski, Kevin Biesty, Page Gonzales and Thomas Adkins; Review ECF filings re same (Dkt. 227-231); docket; distribute to legal group; file same.
28			

1 Description Review: Defendants' Fifth Supplemental  
 2 2/25/2014 2.9 Disclosure Statements and documents produced therein;  
 3 download same to network file folder and upload same to  
 4 FTP link for retrieval by co-counsel.

5 Description Numerous : email from and to Attorney Polansky  
 6 4/1/2014 1.8 (IRP) regarding discovery including recent depositions;  
 7 provide her with same.

8 9. In addition, the ACLU of Arizona should be compensated for the following  
 9 time entry for James Duff Lyall (JDL), which reflects communication between an  
 10 attorney and a client and was wrongly identified by Defendants as administrative,  
 11 totaling 0.4 hours:

12 2/6/2013 0.4 Description Client call re depo resched

13 10. With respect to Defendants' argument that the ACLU of Arizona is  
 14 claiming expenses for which no receipts were submitted, Doc. 337 at 17; Doc. 338-9  
 15 (Exhibit 22), the six ACLU of Arizona items identified by Defendants are further  
 16 explained below.

17 11. Three of the six items reflect reimbursements from co-counsel  
 18 organizations for part of costs incurred in this litigation. They are negative numbers,  
 19 meaning that the ACLU of Arizona has reduced its claimed expenses by the amounts  
 20 indicated because co-counsel have already reimbursed the ACLU of Arizona for part of  
 21 the costs:

22	2/7/2013	ACLU Foundation Nat'l	fee for AZ DACA Driver's License Case (Deposit - 11816)	-\$125.00
23			25% Deposition Cost - Kevin Biesty (ADAC v Brewer) reimbursement	
24	10/31/2013	ACLU Foundation Nat'l	(Deposit -68273)	-\$212.06
25			Reimbursement for charges re: ADAC v. Brewer (Deposit - 15626)	
26	6/17/2014	National Immigration		-\$125.00

12. Likewise, one of the six items reflects a reimbursement from a vendor based on the ACLU of Arizona's agreement with that vendor for a discounted rate. It is a negative number, meaning that the ACLU of Arizona has reduced its claimed expenses by the amount indicated because the vendor reimbursed the ACLU of Arizona for part of the cost:

		D. Pochoda - credit for ADAC v. Brewer delivery	
4/7/2014	FedEx Office	(Credit Card Charge)	-\$3.62

13. Two of the six items reflect parking charges for ACLU of Arizona employees at court hearings in this case. In the exercise of discretion, the ACLU of Arizona will reduce its claimed expenses to omit these items, for a total **reduction of \$32.00**:

		D. Juarez - ADAC vs. Brewer hearing (Credit Card Charge)	\$16.00
3/22/2013	Public Works		
		A. Soler - Parking - ADAC vs. Brewer hearing (Credit Card Charge)	\$16.00
6/21/2013	Public Works		

14. In addition, an ACLU of Arizona attorney (myself, Kathleen E. Brody) completed compensable work in connection with Plaintiffs' Motion and the Reply that this declaration accompanies. That compensable time (11.9 hours at \$350 per hour) totals an **additional \$4,165.00** and is summarized below:

7/5/2018	0.8	Review draft attorneys' fees application.
7/5/2018	1.5	Draft Brody declaration in support of attorneys' fees motion.
7/6/2018	0.7	Revise Brody and Pochoda declarations in support of attorneys' fees motion.
8/16/2018	1.2	Analyze defendants' response to attorneys' fees motion with particular attention to ACLU of Arizona issues
8/24/2018	2.5	Draft portions of reply on fees motion specific to ACLU of Arizona, including analyzing and preparing chart regarding alleged
8/28/2018	0.4	Review and revise draft reply in support of fees motion.
8/28/2018	1.0	Team call re reply brief and supporting declarations.

1 8/28/2018 1.8 Prepare supplemental declaration in support of fees motion.  
2 8/29/2018 0.5 Revise supplemental declaration in support of fees motion.  
3 Further revise and finalize supplemental declaration in support  
4 8/30/2018 1.5 of fees motion.

5 15. Taking into account the reductions indicated in this declaration, as well as  
6 the supplemental information regarding fees incurred in connection with preparing  
7 Plaintiffs' Motion and the Reply that this declaration accompanies, the total sum of  
8 attorneys' fees due to the ACLU of Arizona for work in this matter is **\$71,504.00**.

9 16. Taking into account the reductions indicated in this declaration, the total  
10 sum of unreimbursed expenses due to the ACLU of Arizona for this matter is **\$2,497.39**.

11 I declare under penalty of perjury under the laws of the United States and Arizona  
12 that the foregoing is true and correct.

13 Executed on 31<sup>st</sup> day of August, 2018.

14 By /s/ Kathleen E. Brody  
15 Kathleen E. Brody  
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